

**U.S. District Court
District of Oregon (Portland (3))
CIVIL DOCKET FOR CASE #: 3:17-cv-00575-HZ**

American Civil Liberties Union of Oregon, Inc. et al v. U.S.
Department of Homeland Security et al
Assigned to: Judge Marco A. Hernandez
Cause: 05:552 Freedom of Information Act

Date Filed: 04/12/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**American Civil Liberties Union of
Oregon, Inc.**

represented by **Gregory A. Chaimov**
Davis Wright Tremaine, LLP
1300 SW Fifth Avenue
Suite 2400
Portland, OR 97201-5630
503-778-5328
Fax: 503-778-5299
Email: gregorychaimov@dwt.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek D. Green
Davis Wright Tremaine, LLP
1300 SW Fifth Avenue
Suite 2400
Portland, OR 97201-5630
(503) 778-5264
Fax: (503) 778-5299
Email: derekgreen@dwt.com
ATTORNEY TO BE NOTICED

Kelly K. Simon
ACLU of Oregon
P.O. Box 40585
Portland, OR 97240
503-444-7015
Email: ksimon@aclu-or.org
ATTORNEY TO BE NOTICED

Mathew W. dos Santos
ACLU of Oregon
P.O. Box 40585
Portland, OR 97240
503-227-6928
Email: mdossantos@aclu-or.org
ATTORNEY TO BE NOTICED

Plaintiff

**American Civil Liberties Union of
Alaksa**

represented by **Gregory A. Chaimov**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek D. Green
(See above for address)
ATTORNEY TO BE NOTICED

Kelly K. Simon
(See above for address)
ATTORNEY TO BE NOTICED

Mathew W. dos Santos

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**American Civil Liberties Union of
Colorado**

represented by **Gregory A. Chaimov**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek D. Green
(See above for address)
ATTORNEY TO BE NOTICED

Kelly K. Simon
(See above for address)
ATTORNEY TO BE NOTICED

Mathew W. dos Santos
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**American Civil Liberties Union of
Idaho**

represented by **Gregory A. Chaimov**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek D. Green
(See above for address)
ATTORNEY TO BE NOTICED

Kelly K. Simon
(See above for address)
ATTORNEY TO BE NOTICED

Mathew W. dos Santos
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**American Civil Liberties Union of
Wyoming**

represented by **Gregory A. Chaimov**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek D. Green
(See above for address)
ATTORNEY TO BE NOTICED

Kelly K. Simon
(See above for address)
ATTORNEY TO BE NOTICED

Mathew W. dos Santos
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. Department of Homeland Security

represented by **Chetan Patil**
U.S. Department of Justice, Civil Division

Federal Programs Branch
20 Massachusetts Ave., NW
Washington, DC 20530
202-305-4968
Fax: 202-616-8470
Email: chetan.patil@usdoj.gov
TERMINATED: 12/13/2017

Joseph C. Dugan
U.S. Department of Justice, Civil Division
Federal Programs Branch
1100 L Street, NW, Ste. 11212
Washington, DC 20005
202-514-3259
Fax: 202-616-8470
Email: joseph.dugan@usdoj.gov
ATTORNEY TO BE NOTICED

Matthew J. Berns
U.S. Department of Justice
Civil Division/Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530
202-616-8016
Fax: 202-616-8470
Email: matthew.j.berns@usdoj.gov
TERMINATED: 08/24/2017

Brigham J. Bowen
US Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, DC 20044
(202) 514-6289
Fax: (202) 616-8470
Email: brigham.bowen@usdoj.gov
ATTORNEY TO BE NOTICED

Defendant

U.S. Customs and Border Protection

represented by **Chetan Patil**
(See above for address)
TERMINATED: 12/13/2017
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joseph C. Dugan
(See above for address)
ATTORNEY TO BE NOTICED

Matthew J. Berns
(See above for address)
TERMINATED: 08/24/2017

Brigham J. Bowen
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/12/2017	<u>1</u>	Complaint. Filing fee in the amount of \$400 collected. Agency Tracking ID: 0979-4972084 Jury Trial Requested: No. Filed by American Civil Liberties Union of Idaho, American Civil Liberties Union of Oregon, Inc., American Civil Liberties Union of Colorado, American Civil Liberties Union of Alaska, American Civil

		Liberties Union of Wyoming against All Plaintiffs (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Civil Cover Sheet Civil Cover Sheet). (Chaimov, Gregory) (Entered: 04/12/2017)
04/12/2017	<u>2</u>	Notice of Case Assignment to Judge Marco A. Hernandez and Discovery and Pretrial Scheduling Order. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3–5. Discovery is to be completed by 8/10/2017. Joint Alternate Dispute Resolution Report is due by 9/11/2017. Pretrial Order is due by 9/11/2017. Ordered by Judge Marco A. Hernandez. (cib) (Entered: 04/12/2017)
04/12/2017	<u>3</u>	Proposed Summons <i>US Dept of Homeland Security</i> Filed by All Plaintiffs. (Chaimov, Gregory) (Entered: 04/12/2017)
04/12/2017	<u>4</u>	Proposed Summons <i>US Customs and Border Protection</i> Filed by All Plaintiffs. (Chaimov, Gregory) (Entered: 04/12/2017)
04/13/2017	<u>5</u>	Summons Issued Electronically as to U.S. Customs and Border Protection, U.S. Department of Homeland Security. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3–5. (Attachments: # <u>1</u> issued summons US Customs and Border Protection) (cib) (Entered: 04/13/2017)
05/08/2017	<u>6</u>	Notice of Appearance of Chetan Patil appearing on behalf of All Defendants Filed by on behalf of All Defendants (Patil, Chetan) (Entered: 05/08/2017)
05/08/2017	<u>7</u>	Notice of Motion filed with the JPML to Transfer Action Pursuant to 28 U.S.C. 1407 Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit Exhibit 1 – Transfer Motion, # <u>3</u> Exhibit Exhibit 2 – Supporting Memorandum, # <u>4</u> Exhibit Exhibit 3 – Schedule of Actions) (Patil, Chetan) (Entered: 05/08/2017)
05/10/2017	<u>8</u>	Unopposed Motion for Extension of Time to Answer <i>or otherwise respond to Complaint</i> . Filed by U.S. Department of Homeland Security, U.S. Customs and Border Protection. (Patil, Chetan) (Entered: 05/10/2017)
05/11/2017	<u>9</u>	ORDER: Granting Motion for Extension of Time to Answer <u>8</u> .A response to the Complaint is due by 6/29/2017. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 05/11/2017)
05/11/2017	<u>10</u>	Motion for Stay of Proceedings pending a decision by the Judicial Panel on Multidistrict Litigation on Defendants' Motion to Transfer. Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Patil, Chetan) (Entered: 05/11/2017)
05/25/2017	<u>11</u>	Response to Motion for Stay of Proceedings pending a decision by the Judicial Panel on Multidistrict Litigation on Defendants' Motion to Transfer <u>10</u> . Filed by All Plaintiffs. (Chaimov, Gregory) (Entered: 05/25/2017)
05/30/2017	<u>12</u>	Notice re Motion for Stay <u>10</u> Notice of filing of Plaintiffs' Opposition to Defendants' Motion to Transfer Filed by All Plaintiffs (Related document(s): Motion for Stay <u>10</u> .) (Chaimov, Gregory) (Entered: 05/30/2017)
06/06/2017	<u>13</u>	Notice of Filing of JPML Reply Brief Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security (Attachments: # <u>1</u> Exhibit JPML Reply Brief) (Patil, Chetan) (Entered: 06/06/2017)
06/08/2017	<u>14</u>	Reply to Motion for Stay of Proceedings pending a decision by the Judicial Panel on Multidistrict Litigation on Defendants' Motion to Transfer <u>10</u> . Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Patil, Chetan) (Entered: 06/08/2017)
06/19/2017	<u>15</u>	Notice of Decision in Related Case Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security (Attachments: # <u>1</u> District of Maine Order) (Patil, Chetan) (Entered: 06/19/2017)
06/19/2017	<u>16</u>	ORDER: Denying Motion for Stay <u>10</u> . Signed on 6/19/2017 by Judge Marco A. Hernandez. (jp) (Entered: 06/19/2017)

06/29/2017	<u>17</u>	Answer to <u>1</u> Complaint,, . Filed by U.S. Department of Homeland Security, U.S. Customs and Border Protection. (Patil, Chetan) (Entered: 06/29/2017)
07/22/2017	<u>18</u>	Notice of Appearance of Matthew J. Berns appearing on behalf of All Defendants Filed by on behalf of All Defendants (Berns, Matthew) (Entered: 07/22/2017)
07/31/2017	<u>19</u>	Joint Motion for Extension of Discovery & PTO Deadlines <i>Joint Motion to Extend Case Schedule Deadlines</i> . Filed by American Civil Liberties Union of Alaska, American Civil Liberties Union of Colorado, American Civil Liberties Union of Idaho, American Civil Liberties Union of Oregon, Inc., American Civil Liberties Union of Wyoming. (Green, Derek) (Entered: 07/31/2017)
08/01/2017	20	ORDER: Granting Motion for Extension of Discovery & PTO Deadlines <u>19</u> .The parties shall complete their initial conference pursuant to Fed. R. Civ. P. 26(a)(1)(B) and LR 26-1 by August 30, 2017. Discovery is to be completed by 10/10/2017. Joint Alternate Dispute Resolution Report is due by 11/10/2017. Pretrial Order is due by 11/10/2017. Joint Schedule for remaining deadlines is due by 9/6/2017. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 08/01/2017)
08/24/2017	<u>21</u>	Notice of Attorney Substitution:Attorney Brigham J. Bowen is substituted as counsel of record in place of Attorney Matthew J. Berns Filed by All Defendants. (Bowen, Brigham) (Entered: 08/24/2017)
09/06/2017	<u>22</u>	Second Motion for Extension of Discovery & PTO Deadlines <i>Joint Motion to Extend Case Schedule Deadlines</i> . Filed by All Plaintiffs. (Green, Derek) (Entered: 09/06/2017)
09/13/2017	23	ORDER: Granting Motion for Extension of Discovery & PTO Deadlines <u>22</u> . A jointly proposed case schedule is due by 10/6/2017. Discovery is to be completed by 12/11/2017. Joint Alternate Dispute Resolution Report is due by 1/10/2018. Pretrial Order is due by 1/10/2018. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 09/13/2017)
10/06/2017	<u>24</u>	Unopposed Motion to <i>Alter Case Schedule and Deadlines</i> . Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Bowen, Brigham) (Entered: 10/06/2017)
10/11/2017	25	ORDER: Granting Unopposed Motion to Alter Case Schedule and Deadlines <u>24</u> . A joint status report is due by 11/6/2017. A telephone status conference to discuss the case scheduled is set for 11/8/2017 at 10:00AM before Judge Marco A. Hernandez. All other deadlines will be discussed and set accordingly at the status conference. The parties shall call into the court's conference line (the phone number provided via separate email) five minutes prior to the scheduled conference time. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 10/11/2017)
10/15/2017	<u>26</u>	Notice of Appearance of Joseph C. Dugan appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Dugan, Joseph) (Entered: 10/15/2017)
11/06/2017	<u>27</u>	Joint Fed. R. Civ. P. 26(a)(1) Agreement . Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Dugan, Joseph) (Entered: 11/06/2017)
11/06/2017	<u>28</u>	Joint ADR Report . Filed by All Defendants.(Dugan, Joseph) (Entered: 11/06/2017)
11/06/2017	<u>29</u>	Joint Status Report . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit A: Core Search Terms) (Dugan, Joseph) (Entered: 11/06/2017)
11/06/2017	30	Scheduling Order by Judge Marco A. Hernandez. The Telephone Status Conference set for 11/8/2017 at 10:00AM is RESET to 11/13/2017 at 01:30PM before Judge Marco A. Hernandez. The parties shall use the same conference call information provided to the parties on 10/11/2017. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 11/06/2017)
11/13/2017	31	MINUTES of Proceedings: Status Conference held. Discovery is to be completed by 5/31/2018. Status Conference is set for 3/1/2018 at 09:00AM in Portland by telephone before Judge Marco A. Hernandez. The parties shall use the same conference call information provided to the parties on 10/11/2017. Derek D. Green and Mathew W. dos Santos present as counsel for plaintiff(s). Joseph C. Dugan present as counsel for defendant(s). Court Reporter: Nancy Walker. Judge Marco A. Hernandez presiding.

		(dls) (Entered: 11/13/2017)
11/14/2017	32	Scheduling Order by Judge Marco A. Hernandez: Due to a conflict in the Court's schedule, the telephone Status Conference set for 3/1/2018 at 9:00AM is reset <u>AS TO TIME ONLY</u> to 3/1/2018 at 12:15PM before Judge Marco A. Hernandez. The parties shall use the same conference call information provided to the parties on 10/11/2017. Ordered by Judge Marco A. Hernandez. (jp) Modified on 11/14/2017 to indicate time change only. NEF will be regenerated (jp). (Entered: 11/14/2017)
11/14/2017	33	Transcript Designation and Order Form for the hearing held on 11/13/17 before Judge Hernandez. Court Reporter: Nancy Walker. . Filed by All Defendants. (Dugan, Joseph) (Entered: 11/14/2017)
12/13/2017	34	Notice of Attorney Withdrawal: Filed by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Patil, Chetan) (Entered: 12/13/2017)
12/13/2017	35	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Telephonic hearing held on November 13, 2017 before Judge Marco A. Hernandez, Court Reporter Nancy M. Walker, telephone number 503-326-8186 or e-mail nancy_walker@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter before the deadline for Release of Transcript Restriction. Afterwards it may be obtained from the Court Reporter (503-326-8186) or through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 12/20/2017. Redaction Request due 1/3/2018. Redacted Transcript Deadline set for 1/16/2018. Release of Transcript Restriction set for 3/13/2018. (Walker, Nancy) (Entered: 12/13/2017)
02/23/2018	36	Scheduling Order by Judge Marco A. Hernandez. Due to a conflict in the Court's schedule, the telephone Status Conference set for 3/1/2018 at 12:15PM is RESET AS TO TIME ONLY TO 3/1/2018 at 10:30AM before Judge Marco A. Hernandez. The parties shall use the same conference call information provided for the 12:15 call. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 02/23/2018)
03/01/2018	37	MINUTES of Proceedings: Telephone Status Conference held. Status of case discussed as stated on the record. A further Telephone Status Conference is set for 6/18/2018 at 09:30AM before Judge Marco A. Hernandez. The parties shall call into the court's conference line (the phone number provided via separate email) five minutes prior to the scheduled conference time. Derek Green present as counsel for plaintiff(s). Joseph Dugan present as counsel for defendant(s). Court Reporter: Ryan White. Judge Marco A. Hernandez presiding. (jp) (Entered: 03/01/2018)
05/15/2018	38	Scheduling Order by Judge Marco A. Hernandez. Due to a conflict in the Court's schedule, the Telephone Status Conference set for 6/18/2018 at 9:30AM is RESET to 6/19/2018 at 09:30AM before Judge Marco A. Hernandez. The parties shall call in to the same number provided for the call on 6/18/2018. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 05/15/2018)
06/19/2018	39	MINUTES of Proceedings: Telephone Status Conference held. Status of case discussed as stated on the record. A further Telephone Status Conference is set for 7/26/2018 at 04:30PM in Portland by telephone before Judge Marco A. Hernandez. The parties shall call into the court's conference line (the phone number provided via separate email) five minutes prior to the scheduled conference time. Derek D. Green present as counsel for plaintiff(s). Joseph C. Dugan present as counsel for defendant(s). Court Reporter: Ariel Badenhop. Judge Marco A. Hernandez presiding. (jp) (Entered: 06/19/2018)
07/26/2018	40	MINUTES of Proceedings: Telephone Status Conference held. Status of case discussed as stated on the record. A further Status Conference is set for 9/25/2018 at 09:30AM in Portland by telephone before Judge Marco A. Hernandez. Derek D. Green present as counsel for plaintiff(s). Joseph C. Dugan present as counsel for defendant(s). Court Reporter: Nancy Walker. Judge Marco A. Hernandez presiding. (jp) (Entered: 07/27/2018)
09/24/2018	41	Scheduling Order by Judge Marco A. Hernandez. At the request of the parties, the Telephone Status Conference set for 9/25/2018 at 9:30AM is RESET to 10/11/2018 at 03:30PM before Judge Marco A. Hernandez. The parties shall call into the court's conference line (the phone number provided via separate email) five minutes prior to

		the scheduled conference time. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 09/24/2018)
10/12/2018	<u>42</u>	Notice of Change of Address. Filed by All Defendants. (Dugan, Joseph) (Entered: 10/12/2018)
10/19/2018	43	Scheduling Order by Judge Marco A. Hernandez The telephone Status Conference set for 10/11/2018 at 3:30PM was canceled and is RESET to 12/5/2018 at 10:00AM in Portland by telephone before Judge Marco A. Hernandez. The parties shall use the same call-in information provided for the 10/11/18 call. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 10/19/2018)
12/04/2018	<u>44</u>	Joint Status Report <i>and Request to Vacate Telephonic Status Conference</i> by All Defendants. Filed by All Defendants. (Dugan, Joseph) (Entered: 12/04/2018)
12/04/2018	45	Scheduling Order by Judge Marco A. Hernandez. Pursuant to the parties' Joint Status Report <u>44</u> , the telephone conference set for TOMORROW, 12/5/2018 is CANCELED. The parties shall file either a joint status report or a stipulation of dismissal on or before 1/11/2019. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 12/04/2018)
01/08/2019	<u>46</u>	Unopposed Motion for Stay of <i>1/11/19 Deadline for Joint Status Report or Stipulation of Dismissal in Light of Lapse in Appropriations</i> . Filed by All Defendants. (Dugan, Joseph) (Entered: 01/08/2019)
01/09/2019	47	ORDER: Granting Defendants' Unopposed Motion for Stay of 1/11/19 Deadline for Joint Status Report or Stipulation of Dismissal in Light of Lapse in Appropriations <u>46</u> . Counsel shall inform the Court once Congress has appropriated funds for the Department. The parties' deadline for their joint status report or stipulation of dismissal shall be extended by a period of one month following the date appropriations are restored. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 01/09/2019)
01/28/2019	<u>48</u>	Notice re Order on motion for stay, 47 (<i>Notice of Restoration of Appropriations</i>) Filed by All Defendants. (Related document(s): Order on motion for stay, 47 .) (Dugan, Joseph) (Entered: 01/28/2019)
01/30/2019	49	ORDER: Pursuant to Defendants' Notice to the Court of Restoration of Appropriations <u>48</u> , the parties joint status report or stipulation of dismissal is due February 25, 2019. Ordered by Judge Marco A. Hernandez. (jp) (Entered: 01/30/2019)
02/25/2019	<u>50</u>	Stipulated Motion to Dismiss <i>Stipulation of Dismissal with Prejudice</i> . Filed by All Plaintiffs. (Green, Derek) (Entered: 02/25/2019)